

§ 502.1

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AUTHORITY: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964–1965 Comp. P. 306; 21 U.S.C. 853a.

SOURCE: 49 FR 44369, Nov. 6, 1984, unless otherwise noted.

Subpart A—General Information

§ 502.1 Scope of rules in this part.

The rules in this part govern procedure before the Federal Maritime Commission, hereinafter referred to as the “Commission,” under the Merchant Marine Act, 1920, Merchant Marine

Act, 1936, Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, Administrative Procedure Act, and related acts, except that subpart R of this part does not apply to proceedings subject to sections 7 and 8 of the Administrative Procedure Act, which are to be governed only by subparts A to Q inclusive, of this part. They shall be construed to secure the just, speedy, and inexpensive determination of every proceeding. To this end, all persons involved in proceedings conducted under the rules of this part shall be required to consider at an early stage of the proceeding whether resort to alternative dispute resolution techniques would be appropriate or useful. [Rule 1.]

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 38649, July 19, 1993; 64 FR 7807, Feb. 17, 1999]

§ 502.2 Filing of documents.

(a) *Requirement for filing.* Documents relating to any matter pending before the Commissioners for decision or to any matter pending before the Commission which is likely to come before the Commissioners for decision, whether or not relating to proceedings governed by this part, must be filed with the Secretary, Federal Maritime Commission. Such documents should not be filed with or separately submitted to the offices of individual Commissioners. Distribution to Commissioners and other agency personnel is handled by the Office of the Secretary to ensure that persons in decision-making and advisory positions receive identical copies of submissions in a uniform and impersonal manner and to avoid the possibility of ex parte communications within the meaning of § 502.11. These considerations apply to informal and oral communications as well, such as requests for expedited consideration.

(b) *Date and time of filing.* (1) Documents may be hand-delivered at the Commission during normal business hours from 8:30 a.m. to 5 p.m., Monday through Friday.

(2) Except with respect to initial filing of complaints pursuant to §§ 502.62 and 502.63, and claims pursuant to §§ 502.301 and 502.302, the date of filing shall be either the date on which the

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pleading, document, or paper is physically delivered to the Commission by a party, the date on which a party certifies it to have been deposited in the mail or delivered to a courier, or the date of e-mail transmission.

(c) *Place of filing.* Except for exhibits filed pursuant to § 502.118(b)(4) and petitions for review of final agency orders served on the Commission pursuant to 28 U.S.C. 2112(a), all documents required to be filed in, and correspondence relating to proceedings governed by this part must be addressed and delivered to “Secretary, Federal Maritime Commission, 800 N. Capitol Street, NW., Washington, DC 20573–0001” or to secretary@fmc.gov.

(d) *Service of petition for review of Commission order.* Petitions for review of final agency orders served on the Commission pursuant to 28 U.S.C. 2112(a) must be addressed and delivered to “General Counsel, Office of the General Counsel, Federal Maritime Commission, 800 N. Capitol Street, NW., Washington, DC 20573–0001.”

(e) *Number of copies.* Parties filing documents in proceedings before the Commission or an administrative law judge must file an original, signed document and five (5) copies, and, if possible, a PDF of the document. The PDF document should be sent by e-mail to secretary@fmc.gov or submitted on an electronic storage device (such as compact disc or USB flash drive).

(f) *E-mail transmission of filings.* (1) Initial filing of complaints and claims pursuant to §§ 502.62–502.63 and 502.301–502.302 must be accomplished in the traditional manner on paper, rather than by e-mail.

(2) Pursuant to § 502.5 of this subpart, confidential filings must be accomplished in the traditional manner on paper, rather than by e-mail.

(3) If a filing is submitted electronically as a PDF attached to an e-mail, the original, signed document, and five (5) copies must be received by the Secretary within seven working days. The e-mail transmitting the PDF copy of a document must include a certification by the filing party that the electronic copy is a true and correct copy of the paper original, and that the paper signed original and five (5) copies are being filed with the Secretary of the

Commission. The e-mail Subject Line must include the docket number of the proceeding and be sent to secretary@fmc.gov.

(g) *Filing after announcement of Commission meeting prohibited.* No filings relating to matters scheduled for a Commission meeting will be accepted by the Secretary if submitted subsequent to public announcement of the particular meeting, except that the Commission, on its own initiative, or pursuant to a written request, may in its discretion, permit a departure from this limitation for exceptional circumstances. (See § 503.82(e) of this chapter.)

(h) *Return of rejected filings.* Any pleading, document, writing, or other paper submitted for filing which is rejected because it does not conform to the rules in this part will be returned to the sender.

(i) *Continuing obligation to provide contact information.* All parties and representatives are under a continuing obligation to provide the Commission and all other parties in a proceeding with accurate and current contact information including a street address, telephone number, and e-mail address.

(j) *Form of documents.* All papers to be filed under the rules in this part must be clear and legible, dated, show the docket number and title of the proceeding, document title, and include the title, if any, and address of the authorized signer or representative. An original signed in ink must be provided. Text shall appear on only one side of the paper and must be double spaced except that quotations of fifty or more words should be single-spaced and indented on the left and right without quotation marks. The paper must be strong and durable, of letter size (8½ x 11 in. or 215.9 x 279.4 mm) or A4 size (8.27 x 11.69 in. or 210 x 297 mm), with a margin of at least one inch on all four sides. Documents must be printed in clear type, and the type size, including footnotes and endnotes, must not be smaller than 12-point.

(k) *Discovery materials excluded from filing requirement.* (1) The following discovery requests and responses must not be filed with the Secretary until they

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are used in the proceeding, or the Commission or presiding officer orders filing:

- (i) Notice and transcript of depositions;
- (ii) Interrogatories;
- (iii) Requests for documents or tangible things or to permit entry onto designated land or other property;
- (iv) Requests for admission; and
- (v) Expert witness reports.

(2) The party that served the notice of deposition or discovery papers must preserve and ensure the integrity of original transcripts and discovery papers for use by the Commission or the presiding officer. A party that wants to use any part or all of discovery requests and responses in the proceeding must include the part or all of the documents in an appendix to be filed with the motion or other paper that refers to those documents. A party filing an appendix exceeding 100 pages should file an original and two (2) copies on paper and, if possible, also file such appendix by e-mail or on an electronic storage device. [Rule 2.]

[76 FR 10259, Feb. 24, 2011]

§ 502.3 Compliance with rules or orders of Commission.

Persons named in a rule or order shall notify the Commission during business hours on or before the day on which such rule or order becomes effective whether they have complied therewith, and if so, the manner in which compliance has been made. [Rule 3.]

[76 FR 10260, Feb. 24, 2011]

§ 502.4 Authentication of rules or orders of Commission.

All rules or orders issued by the Commission in any proceeding covered by this part shall, unless otherwise specifically provided, be signed by the Secretary of the Commission in the name of the Commission. [Rule 4.]

[76 FR 10260, Feb. 24, 2011]

§ 502.5 Documents containing confidential materials.

Except as otherwise provided in the rules of this part, all filings that contain information previously designated as confidential pursuant to §§ 502.13, 502.167, 502.201(i)(1)(vii), or any other

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rules of this part or for which a request for protective order pursuant to § 502.201(i) is pending, are subject to the following requirements:

(a) Filings shall be accompanied by a transmittal letter that identifies the filing as “confidential” and describes the nature and extent of the authority for requesting confidential treatment. The confidential copies shall consist of the complete filing and shall include a cover page marked “Confidential-Restricted,” with the confidential materials clearly marked on each page. Confidential filings should not be made by e-mail.

(b) Whenever a confidential filing is submitted, there must also be submitted an original and one copy of a public version of the filing. Such public version shall exclude confidential materials, and shall indicate on the cover page and on each affected page “confidential materials excluded.” Public versions of confidential filings may be submitted by e-mail.

(c) Confidential treatment afforded by this section is subject to the proviso that any information designated as confidential may be used by the administrative law judge or the Commission if deemed necessary to a correct decision in the proceeding. [Rule 5.]

[76 FR 10260, Feb. 24, 2011]

§ 502.6 Verification of documents.

(a) If a party is represented by an attorney or other person qualified to practice before the Commission under the rules in this part, each pleading, document or other paper of such party filed with the Commission shall be signed by at least one person of record admitted to practice before the Commission in his or her individual name, whose address shall be stated. Except when otherwise specifically provided by rule or statute, such pleading, document or paper need not be verified or accompanied by affidavit. The signature of a person admitted or qualified to practice before the Commission constitutes a certificate by the signer that the signer has read the pleading, document or paper; that the signer is authorized to file it; that to the best of the signer’s knowledge, information, and belief formed after reasonable inquiry, the filing is well grounded in